

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 4TH APRIL 2007 / 14TH CHAITHRA 1929

Crl.MC.No. 1107 of 2007()

CP.24/2006 of JUDL.MAGISTRATE OF FIRST CLASS-II, ERNAKULAM
CRIME NO.706 OF 2006 OF CENTRAL POLICE STATION
.....

PETITIONER: ACCUSED

MAHIPAL SINGH, S/O.BURYA SINGH,
PALASODU VILLAGE, MAGRA P.O., THEHIRI GARVAL
DISTRICT, UTTAR PRADESH, NOW RESIDING AT
MAMMOUS HOTEL, PETAH, TRIPUNITHURA.

BY ADV. SRI.PRADEESH CHACKO

RESPONDENTS: COMPLAINANTS

1. CIRCLE-INSPECTOR OF POLICE,
ERNAKULAM CENTRAL POLICE STATION,
ERNAKULAM DT.
2. SUMITRA, W/O.RAJENDRA SINGH,
PALASODU VILLAGE, MAGRA P.O., THEHIRI GARVAL
DISTRICT, UTTAR PRADESH, NOW RESIDING AT
H.NO.62, UDAYA COLONY, GANDHI NAGAR, ERNAKULAM,
ERNAKULAM DT.
3. THE STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 04/04/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

Crl.M.C.No.1107 of 2007

Dated this the 4th day of April, 2007

ORDER

The petitioner faces indictment in a prosecution under Section 376 read with Section 511 I.P.C. The crux of the allegation is that he allegedly attempted to commit rape of the wife of a friend of his. The victim is arrayed as the 2nd respondent in this Crl.M.C.

2. The petitioner has come to this Court with a prayer that powers under Section 482 Cr.P.C may be invoked to quash the final report filed against the petitioner. What are the reasons ? The learned counsel for the petitioner submits that the allegations are false and unaccepted. Secondly it is contended that the parties have settled their disputes.

3. At this stage and invoking the jurisdiction under Section 482 Cr.P.C, it will certainly not be possible for this Court to resolve any disputed questions of fact. The contention that the allegations are false cannot, in these circumstances, persuade this Court to invoke the powers under Section 482 Cr.P.C.

4. The only other contention is that the defacto complainant has settled the disputes. She is in an advanced stage of pregnancy. She has to return to her native place in Uttar Pradesh. She is willing to appear before the court and report settlement, but the offence is

not compoundable. The allegations are serious. Even the fact that contrary to the provisions of Section 320 Cr.P.C, the parties have settled their disputes, is no reason to invoke the powers under Section 482 Cr.P.C.

5. In short, the prayer to invoke the powers under Section 482 Cr.P.C cannot be accepted. The learned counsel for the petitioner then prays that there may be a direction for expeditious disposal so that it can be ensured that the 2nd respondent appears before court and reports to the court the composition of the matter so that the petitioner can make a request to frame charges only for lesser compoundable offence punishable under Section 354 I.P.C.

6. The said request appears to me to be reasonable. I need only direct the learned Magistrate to expeditiously complete steps for committal of the case to the learned Sessions Judge and the learned Sessions Judge to expeditiously consider the prayer of the petitioner that the charges need not be framed under Section 376 read with Section 511 I.P.C and that the offence under Section 354 I.P.C has been validly compounded.

7. It is not necessary in these circumstances for the Court to wait for the report of the Forensic Science Laboratory to commit the case to the Court of Sessions.

8. This Crl.M.C is, in these circumstances, dismissed, but with the above observations.

(R.BASANT, JUDGE)

rtr/-